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FOLEY & LARDNER
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SUITE 500
WASHINGTON, DC 20007

In re Application of
MATSUMOTO et al.
Application No.: 10/589,346
PCT No.: PCT/JP05/00179
Int. Filing Date: 02 July 2005
Priority Date: 12 February 2004
Attorney Docket No.: 072982-0278
For: MOBILE COMMUNICATION SYSTEM AND
WIRELESS APPARATUS TO BE USED FOR THE SAME:

DECISION on
MERGING APPLICATION FILES

The above-identified application is before the PCT Legal Office for matters arising under 35 U.S.C. 371.

BACKGROUND

On 11 January 2005, applicant filed international application No. PCT/JP05/00179, which claimed priority of an earlier international application filed 27 January 2004 and designating the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 August 2005. The deadline for entering the U.S. national stage to 30 months or as of midnight on 27 July 2006.

On 15 June 2006, applicant filed, through the law firm of Pearne & Gordon, a transmittal letter for entry into the national stage in the United States (Form PTO-1390) which was accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). The submission, identifying PCT/JP05/00179, was assigned U.S. application number: 10/597,153.

On 11 August 2006, applicant, through the law firm of Foley & Lardner, filed a Transmittal Letter referencing PCT/JP05/00179 and requesting entry into the national stage in the United States. This communication was accompanied by, *inter alia*, a copy of the international application PCT/JP05/00179 and a declaration identifying PCT/JP05/00179. However, the declaration was executed by Mariko Matsumoto and Syousei Yoshida, who are not inventors listed in the published international application PCT/JP05/00179.

DISCUSSION

As is evident from the above recited facts, applicant submitted papers to enter the national stage for the same international application on 15 June 2006 and on 11 August 2006. The end result for an international application designating the United States of America is a

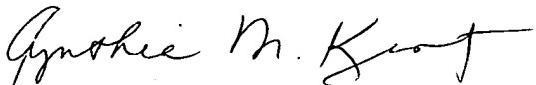
single U.S. national stage application¹. Therefore, assigning a second U.S. application number arising from PCT/JP05/00179 is improper.

It is noted that in a review of international application PCT/JP05/00179, the title, inventors, international filing date and priority date are different than those listed on the transmittal letter submitted by applicant on 11 August 2006. It appears that the international application number may be in error. Applicant may wish to file a petition under 37 CFR 1.182 to correct the international application number, requesting rectification of incorrect international application no. and identifying the correct international application no.

CONCLUSION

The application will be held in the PCT Legal Office to await applicant's further reply.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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¹ 35 U.S.C. 363 states:

An international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in 102(e) of this title. (emphasis added)

Further, 35 U.S.C. 371(b) states:

(b) Subject to subsection (f) of this section, the national stage shall commence with the expiration of the applicable time limit under article 22(1) or (2), or under article 39(1)(a) of the treaty. (emphasis added)

The language of 35 U.S.C. 363 and 371 refers to the national stage of the PCT in the singular only, and thus only one (1) national stage application in the U.S. may develop from an international application.